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ABSTRACT

The Federal Communications Commission (FCC) presents a brief description of cable television and explains some basic regulations pertaining to it. The history of cable regulation covers the initial jurisdiction, economic considerations of the regulation, court tests, and the holding of public hearings. The major provisions of new cable rules are also outlined. These cover authorized signals, additional signals, cable systems outside of television markets, leapfrogging, educational and foreign language stations, program exclusivity, grandfathering, operating requirements, pending cases, nonbroadcast channels, two-way capacity, franchises, and technical standards. Also covered briefly are the cable television task force, advisory committees, cablecasting, cable TV system ownership, electric utility pole use regulations, microwave auxiliary facilities, and nondiscrimination rules. (JK)

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INFORMATION BULLETIN

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GENERAL

Cable TV was developed initially in the late '40s in communities unable to get TV reception because of terrain or distance from TV stations. Master antennas were built to pick up broadcast station signals and feed them by cable to subscribers for a fee.

In 1950, there were only 70 cable TV operations in the United States, serving 14,000 subscribers. At the close of fiscal 1972 there were more than 2,800 cable systems serving well over 5 million homes in some 5,300 communities.

Cable offers clearer pictures than home antennas, particularly for color TV, and can offer large numbers of channels for TV signals and various other services. Many systems feature separate channels for weather, stock market reports, wire service news and FM radio. Some cable operators originate their own programs.

Predictions for the future capabilities of cable range from services now technically feasible to those requiring advanced technology. Cable operators foresee their systems developing into two-way home communications centers through which subscribers may shop for merchandise, order facsimile newspapers, conduct banking business and have utility meters read.

The average cable system has 2,000 subscribers. The largest--in San Diego--has over 47,000; some have fewer than 100. Most systems offer between 6 and 12 channels, the average being 10.4. Cable TV systems are capable of offering up to 60 different channels. The average monthly fee is $5 for service; installation fees range from gratis to about $100, but the average is $20.

Cable systems are still concentrated in smaller communities; over half of the systems serve fewer than 1,000 homes each. But in large metropolitan areas, where reception is a problem because of the "canyons" created by tall buildings, the number of cable subscribers is increasing.

CABLE REGULATION

Initial Jurisdiction

The Commission asserted limited jurisdiction over cable TV in 1962, first establishing rules in 1965 for those systems which received signals by microwave. (Microwave stations have always been FCC licensed.) In 1966, the Commission established rules for all cable systems, whether served by microwave or not.

Economic Considerations

TV broadcasters contend that the importation of distant signals and the resultant duplication of programing tend to diminish their audience. They claim that, since advertising revenues are based on the number of viewers, such a reduction poses an economic threat in that the wider choice of channels, and clearer distant-signal reception provided by cable, discourage viewers from watching the local TV broadcast service. Such competition is driving small stations out of business and discouraging new ones from starting, broadcasters have maintained.

There are also copyright considerations. TV stations or the networks serving them have paid for program material and producers and performers of programs and commercials get paid when their product is shown. Cable systems have not yet been required to pay for rights for the programs they pick up off the air and retransmit.

yright problems required Congressional legis . Bills on the subject have been introduced in Congress over a number of years, but no solution has yet been reached.

Second Report and Order

To protect local stations, the Commission required cable systems to carry all local TV stations; prohibited systems from duplicating, on the same day, via signals originating in another city, a program broadcast by a local station; and prohibited them from bringing distant signals into the top-100 markets without a hearing on the probable effect on local broadcasting. These initial cable TV rules were adopted in 1966 in the Second Report and Order in Docket 15971, an inquiry and rulemaking proceeding begun in 1965.

In markets below the top-100, no restrictions were placed on the signals a cable system might bring in, but procedures were adopted permitting threatened stations to challenge proposed importation of distant signals.

Court Test

Challenged in the courts, the FCC cited its mandate under the Communications Act to regulate "interstate commerce by wire or radio." In June 1968, the Supreme Court affirmed the Commission's position.

The benchmark case (United States v. Southwestern Cable Co.) arose from an interim Commission decision which limited the right of San Diego cable systems to carry the programing of Los Angeles stations. The Court decided that "the Commission has reasonably concluded that regulatory authority over [cable TV] is imperative if it is to perform with appropriate effectiveness certain of its responsibilities." The Court found that the FCC needed authority over cable systems to assure the preservation of local broadcast service and to effect an equitable distribution of broadcast services among the various regions of the country.

Proposed Rules

On December 13, 1968, the Commission invited comments on a proposed major revision of its cable rules. Under the proposals, cable systems within the top-100 markets and within 35 miles of the central reference point in the community would be permitted to import distant signals without prior hearing or Commission approval, provided that they had obtained retransmission consent from the distant station involved.

Cable systems within the 35-mile zone of established stations or permittees in smaller markets would be permitted to carry such signals as needed to provide subscribers with the three full-network services, one independent station, and any educational stations, provided that the signals were obtained from the closest source in the system's State or region. The system could carry additional

distant signals only with the prior consent of the distant stations involved.

Cable systems located beyond the designated zones could carry as many distant signals as they wished, so long as they refrained from "leapfrogging," or carrying a more distant signal rather than a closer station of the same type.

The Commission adopted "interim procedures," for use during the rulemaking proceeding providing for suspension of distant signal hearings; deferral of processing of all petitions or applications seeking authorization of service inconsistent with the proposed rules; and grant of a limited number of waivers to permit operation with retransmission consent, in order for the Commission to obtain information about the actual operation of the proposed retransmission-consent requirement.

Public Hearings

In March 1971, the Commission conducted nine full days of public hearings on further cable TV rulemaking proposals. The first four days of the hearings were conducted before the full Commission using an experimental panel format where topics of particular importance were discussed by spokesmen for contrasting viewpoints, providing direct confrontation and debate.

During Congressional hearings, the Commission agreed to submit its proposed rules to Congress before they went into effect.

NEW RULES

General

New rules for cable TV, representing the most comprehensive compiliation of regulations since the first general rules were issued in February 1966, were adopted February 2, 1972, and became effective March 31, 1972.

A general outline of the proposed rules was first submitted to Congress on August 5, 1971. While the new rules generally adhered to those proposals they were modified in some respects to reflect the consensus agreement on exclusivity and distant signal importation reached between industry groups in cooperation with the FCC and the Office of Telecommunications Policy.

Major Provisions

Authorized Signals

Cable systems in the top-50 markets were authorized to carry the signals of three full network stations and three independent stations. In television markets from 51 to 100, the standard is three network signals and two independents, and in markets below 100, systems may carry three full network signals and one independent. If the signals are not available within a 35-mile radius, the systems will be able to import distant signals to reach the required level of service.

Additional Signals

In addition to the authorized complement of signals, cable systems in the top-100 markets were also permitted to carry two additional independent signals. Any distant signals that have been imported, however, to meet the authorized complement of stations must be deducted from the additional signals permitted. Cable systems in markets below the top-100 may not import signals beyond the specified three networks and one independent authorized.

The Commission said it was permitting importation of two additional signals in major markets because it felt this was the minimal amount of new service that can be expected to attract investment capital needed for construction of new systems to "open the way for full development of cable's potential."

Cable Systems Outside of TV Markets

Cable systems outside the zones of any TV stations may carry any number of television signals. They are, however, required to carry all Grade B signals, all educational stations within 35 miles, and all translator stations of 100 watts power or greater licensed to the cable community. The Commission said it was taking an additional step, not provided for in the August letter, requiring new cable systems, and established systems with sufficient capacity, to carry smaller market TV stations when they can show they have sufficient audience in the community even when the station does not provide a Grade B contour signal to the cable community. New cable systems are also required to provide simultaneous nonduplication protection for these stations. (Under this requirement, when a program is being carried on such a station, the cable system may not carry the same program on another station at the same time.)

Leapfrogging

Cable systems are required to carry the closest network affiliates or the closest such station within the same state as the cable system. Independent signals, if they come from the top-25 markets, must be from the two closest markets. Systems carrying a third independent signal are required to choose a UHF station within 200 miles or, if such a station is not available, a VHF signal from the same area or any independent UHF signal.

When a program is not available on a regularly carried independent station because of non-duplication protection rules, the cable system may insert a non-protected program from any other station. The cable system may also substitute programs for imported signals that are primarily of local interest in another community, for example, local news programs.

Educational and Foreign Language Stations

All educational stations within 35 miles of a cable system, and those placing a Grade B contour over the cable community must be carried on the system. There are no limits on the number of foreign language signals a cable system may carry except in markets where there is a station broadcasting in one foreign language predominantly. Foreign language stations are not to be counted as part of the distant signal quota.

Program Exclusivity

The new rules provide for exclusivity for syndicated programs as well as network programs. Stations having a priority on the cable system (this is determined by signal strength--stations with the strongest signals in the market have the highest priority) would be assured of exclusive presentation rights at the time network programs are being broadcast. This exclusivity would also apply to non-syndicated programs. In the top-50 markets, the rules prohibit cable systems from carrying syndicated programs on imported stations if they have been notified by a local station that it is carrying the program. The restriction applies for one year in cases of first run syndicated programs and for the run of the contract in exclusive contract situations. While exclusivity also applies in the second 50 markets, various provisions allow for greater accessibility of programs and shorter terms of exclusivity.

Grandfathering

The new rules do not apply to any signals cable systems were carrying or authorized to carry before March 31, 1972. Signals authorized or grandfathered to one system in a community, however, may also be carried by other systems in the community.

Operating Requirements

New requirements were established for cable systems beginning service. New systems will have to file an application for a certificate of compliance, submitting various data including a copy of the system franchise and a statement of compliance with cable TV rules. Currently operating systems will not have to file applications until 1977 unless they are adding new signals.

Public notices will be issued on all requests for certification with 30 days permitted for filing objections. Following the 30 day period, systems may receive certificates of compliance. They may not begin operation without such certificates.

Pending Cases

In order to dispose of procedural matters in pending cases, rules were adopted generally providing for continued consideration of matters still pertinent. Matters that come under the provisions of the new rules will be dismissed as moot.

Nonbroadcast Channels

In order not to impose unreasonable economic burdens on cable operators, minimal channel standards were set only for the top-100 markets. In these markets, the Commission said that 20 channels was "the minimum consistent with the public interest." It also specified that for each broadcast signal carried, cable systems in these markets must make an equivalent signal available for nonbroadcast use.

Cable systems are required to make available a public access channel without charge on a first come, first served basis. They also have to reserve a channel for educational use and one for local government use. There may be no charge for these facilities during a five year "developmental period." Any extra channels on the system must be available for leased use. Channels designated for various public uses, or blacked out because of exclusivity, may also be made available for lease. Cable systems are also required to make additional channels available as demand develops.

Two-Way Capacity

Cable sytems are required to have capacity for at least non-voice two-way communications. The Commission said two-way capacity for each subscriber was premature.

Regulation of Nonbroadcast Channels

The Commission said that regulation of access channels for nonbroadcast programing was "properly" its concern because they "fulfill Communications Act purposes and ... are integrally bound up with the broadcast signals being carried by cable." It pointed out, in addition, that the leased channels would very likely carry programs being transmitted by satellite or microwave facilities--services which come under Commission jurisdiction. Local regulation of these channels, the Commission said, would put them under a double obligation and would be "confusing and impracticable." In communities outside of the top-100 markets, where access channels are not required, the Commission said it would permit local authorities to require access services based on the standards for the major markets.

Cable operators may not censor or exercise any kind of program content control over material presented on the access channel and may not discriminate in making the channels available. Cable systems are required to maintain production facilities for those using the public access channels.

Franchises

Acknowledging that federal licensing of cable systems would be an "unmanageable burden," the Commission cited the value of local authorities in administering franchise matters and in following up service complaints. Operating under a "deliberately structured dualism" the Commission said its function would be to set minimum standards for franchises issued by local authorities, covering such matters as the franchise selection process, construction deadlines, length of franchises, fees, complaint handling and rate changes. These standards would be administered in the certificating process. It also pointed out that it was the prerogative of the local government to determine character qualifications for franchise applicants.

While conceding the competence of local authorities in estabishing franchise areas, the Commission stated that provision must be made to bring cable benefits to all areas of a community--not just the more affluent sections. It also set standards to insure that franchises were established promptly. It specified that cable systems must begin construction within one year after a certificate of compliance is issued, and that the facilities must be extended to cover at least 20 percent of the franchise area each succeeding year.

The Commission said that it felt that franchises generally should not exceed 15 years. It said it would permit local authorities to regulate rates charged to subscribers.

Franchise fees, the Commission commented, should be reasonable and should not interfere with carrying out federal goals. In view of this, it required, when a fee is more than three percent, that franchising authorities demonstrate that the fee is justified. The franchisee must also show that the fee will not interfere with its ability to meet its obligations under FCC rules.

Technical Standards

A series of technical standards was adopted based on rules proposed June 24, 1970. Four classes of channels were designated according to use--broadcast signals (Class I), cablecast programs (Class II), subscription and special services (Class III), and return communications (Class IV). Performance tests and measurements were established to insure satisfactory system performance, and signal and interference standards adopted. The Commission proposed that the standards be augmented to cover a number of additional areas including establishment of criteria for receivers specifically designed for use on cable systems, frequency allocations within the cable network, presentation of aural broadcast programs and similar technical matters.

Reconsideration

The Cable Television Rules were generally affirmed by the Commission in June 1972 in response to petitions for reconsideration. The Commission clarified aspects of the rules in a number of areas including exclusivity, franchising and access channels. It specified that television stations licensed to communities in the Mountain Standard Time Zone may request cable systems to provide them with "same-day" rather than "simultaneous" network program exclusivity. Access requirements were eased somewhat, permitting cable systems operating in the 100 major television markets, prior to March 31, 1972, to add a specific access channel for each added broadcast signal. The rules, as originally adopted, had required these systems to provide all required access channels when a television signal was added. Cable systems which have made significant financial investments or have entered into binding contractual agreements on franchises granted before March 31, 1972, will be granted certificates of compliance even though the terms of the outstanding franchise are not completely consistent with Commission requirements. The Commission said it would consider granting certificates of compliance to cable systems that show there is no appropriate franchising authority in their area. Such systems would have to provide information and assurances that their construction and services will be in compliance with the cable TV rules.

THE CABLE TELEVISION BUREAU

After adopting cable TV rules, the Commission in 1966 created a CATV Task Force to administer them. By January 1970, the rapid growth of the cable industry necessitated creation of the Cable Television Bureau, charged with administering and enforcing cable TV rules, gathering information about the cable industry, and advising the Commission on cable matters generally. The bureau also licenses stations in the Community Antenna Relay Service (CARS), a group of private microwave facilities owned by cable systems, used to relay TV and other signals to the cable systems.

ADVISORY COMMITTEES

Cable Television Advisory Committees were created to deal with problems of Federal-State/local Relationships resulting from the adoption of new rules and to aid in the development of technical standards.

The membership of the Advisory Committees consists of representatives of state and municipal entities, the cable television industry, the electronics industry, public-interest groups, and members of the Commission staff.

The Federal State/local Committee is to consider such matters as enforcement of minimum procedural requirements in the local franchising process; enforcement of service and technical standards; regional interconnection of cable systems; construction timetables, and equitable development of service areas; the possibility of framing standardized franchise terms, forms and applications; methods of establishing subscriber rates, access costs, leased channel rates and franchise fees, and franchise applicant selection criteria.

The Technical Advisory Committee is to formulate and propose technical standards for carrying cable originated programs, two-way communications, and various miscellaneous cable services as they develop. Comments will be considered on such matters as limitations on permissible cross-modulation, ghosting, measurement techniques, and carrying aural broadcast signals.

Organization work on the committees got underway in May 1972, when ad hoc steering groups held their first meetings and established criteria for various assignments.

CABLECASTING

The Supreme Court of the United States in a 5-4 decision, reversed a ruling by the U. S. Court of Appeals for the Eighth Circuit (Midwest Video Corp. v. U. S.) which held that the FCC did not have the authority to require cable TV systems to originate programing. The Commission in a First Report and Order in Docket 18397, adopted October 24, 1969, required cable systems with 3,500 or more subscribers to maintain facilities for local production and presentation of cablecast programs and to engage in cablecasting "to a significant extent." April 1, 1971, was set as the effective date. The Court of Appeals ruled against the new rules on May 13, 1971, and the Commission voluntarily suspended the program origination requirements while applying for judicial review.

Identification Standards

Because of complaints from cable TV viewers that some cable operators use call signs on their originated programs which are similar to TV broadcast station call signs, creating confusion in the minds of viewers as to whether they are watching broadcast programs or cable programs, the FCC proposed rules requiring cablecasters to identify their originated programs as the product of the cable TV company by name, and by use of the expression "Cable TV, Channel __, (Location)."

The Commission noted that the Field Engineering Bureau has received complaints of interference in cable systems, and said that a unique system of identification could help in locating, pinpointing and identifying this interference.

The Commission said it was not proposing to use four-letter call signs because the general shortage of these call signs in the "K" and "W" series would be unnecessarily compounded if large numbers of four-letter call signs were used by cablecasters. It said that four-letter call signs with a "CT" indication on the end or call letters with more than four digits would be equally confusing. The identification system it proposed would inform the viewer clearly and simply if he was watching a cablecast or broadcast program.

The Commission also proposed that the identification announcement be made at the beginning and end of each cablecast program both by aural and visual means.

CABLE TV SYSTEM OWNERSHIP

In separate proceedings concluded in February (Docket 18509) and in June (Docket 18397) of 1970, the Commission prohibited cable TV system ownership by telephone companies within their local exchange areas; by television stations within the same market; and by national television networks anywhere in the country; and by television translator stations in the same community. The prohibition against telephone company ownership is designed to eliminate potential anticompetitive and discriminatory practices, made possible by the local telephone company's monopoly position in the community it serves, and its ownership of utility poles, ordinarily required for cable TV system construction. This rule does not prevent telephone companies from owning cable systems outside their local exchange area or from providing cable facilities (channel distribution service) on a lease or tariff basis for use by an unaffiliated system.

The Commission's adoption of a rule prohibiting network, television station and translator cross-ownership of cable systems took into account the growing role of cable systems as program originators and was designed to insure vigorous competition among the mass media and to obtain for the public the greatest possible diversity of control over local mass communications media.

As part of its continuing concern with patterns of media ownership, the Commission issued an additional Notice of Proposed Rule Making (Docket 18891) to obtain views on whether cable system ownership by radio stations and local daily newspapers should be prohibited. At the same time, the question was posed whether there should be an upper limit on the number of cable systems owned by a single entity nationally or on a regional basis.

-ELECTRIC UTILITY POLE USE REGULATION

Cable systems are generally constructed by stringing coaxial cable on existing telephone company poles or poles owned by electric utility companies. Cable systems, alternatively, may set their own poles, place their coaxial cable underground or obtain transmission facilities from the local telephone company under tariffs filed with the Commission.

In January of 1970 (Docket 18509), the Commission adopted rules requiring that telephone companies, offering to provide cable channel distribution service, also make available to cable operators, pole attachment rights at reasonable charges and without undue restrictions on the uses that may be made of the cable attached to their poles.

In March of 1970 the Commission instituted an investigatory rulemaking proceeding (Docket 16928) into the practices and policies of telephone and electric utilities companies and others in permitting cable systems the use of their poles, and to ascertain what jurisdiction the Commission has over these policies and practices.

MICROWAVE AUXILIARY FACILITIES

Cable systems, in addition to providing subscribers with off-the-air signals also obtain signals, sometimes from hundreds of miles away, through microwave radio stations. Microwave relay service is available from common carriers in many areas, or cable systems may prefer to operate their own relay stations licensed in the Community Antenna Relay Service (CARS). CAR shares the 12.7 to 12.94 GHz band with auxiliary facilities of television broadcast stations.

By Report and Order of November 7, 1969 (Docket 17999), CAR stations were authorized to carry cable TV originated programing. The CARS rules were further amended to authorize licensing of mobile remote pickup stations, for the transmission of programing from the scenes of events outside a studio back to the cable studio or headend, and to provide for the licensing of studio-to-headend link stations.

In a separate proceeding (Docket 18425), concluded on November 7, 1969, the Commission adopted rules authorizing a cable local distribution service in the CARS band. These rules contemplate local distribution stations within a cable system, in place of cable, in order to relay program material from a central distribution point to multiple receiving sites within the system. The use of such a radio distribution system may facilitate expansion of cable service to pockets of population not economically reached by cable alone, and may offer economies where overhead cable construction cost is prohibitive. The frequency assignment plan adopted makes possible the relaying of 38 television or equivalent channels for two-hop operation. In another proceeding (Docket 18838), rules were adopted to permit use of a frequency-division multiplexed FM emission system.

NONDISCRIMINATION RULES

All operators of cable TV systems and relay stations (CARS) were required to afford equal opportunity in employment to all qualified persons, and prohibit discrimination in employment because of race, color, religion, national origin, or sex in rules adopted by the Commission March 23, 1972 (Docket 19246).

The rules require that all cable TV or CARS operators establish and maintain programs designed to assure equal opportunity for females, Blacks, Orientals, American Indians, and Spanish-surnamed Americans in such aspects of employment practice as recruitment, selection, training, placement, promotion, pay, working conditions, demotion, layoff and termination.

All cable TV or CARS operations employing five or more full-time employees must file statements of their equal opportunity programs not later than June 30 of each year. They also must submit an annual statistical report to the Commission by that date. Not later than April 1, of each year, all operators must file a report indicating whether any complaints have been filed regarding violations of equal employment provisions of Federal, State, Territorial, or local law, with a description of the complaints.

Each operator filing annual employment reports must maintain local files for public inspection for a period of five years.

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